

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

William J. Carey

v.

Civil No. 09-cv-91-PB

Larry Blaisdell, Warden,
Northern New Hampshire
Correctional Facility

O R D E R

Before the court for preliminary review is pro se petitioner William J. Carey's petition for a writ of habeas corpus (document no. 1), filed pursuant to 28 U.S.C. § 2254. See Rule 4 of the Rules Governing § 2254 Proceedings ("§ 2254 Rule") (requiring initial review to determine whether the petition is facially valid and may be served); see also United States District Court for the District of New Hampshire Local Rules ("LR") 4.3(d) (authorizing the magistrate judge to preliminarily review pro se pleadings).

As explained more fully in a Report and Recommendation filed simultaneously herewith, I have determined that petitioner is in state custody and appears to have exhausted the state remedies which are available for the equal protection and due process claims identified in the Report and Recommendation as claims II and III. See 28 U.S.C. § 2254(a) and (b) (providing that the

writ "shall not be granted" unless petitioner is in state custody and has exhausted all available or effective state remedies). I have recommended dismissal of all other claims asserted in the petition as noncognizable under 28 U.S.C. § 2254. I, therefore, order service of the petition on respondent. See § 2254 Rule 4.

Accordingly, the petition shall be served upon Larry Blaisdell, Warden, Northern New Hampshire Correctional Facility, which shall file an answer or other pleading in response to the allegations made therein. See id. (requiring reviewing judge to order a response to the petition). The Clerk's office is directed to serve the New Hampshire Office of the Attorney General as provided in the Agreement On Acceptance Of Service, copies of this Order and the habeas petition (document no. 1). Respondent shall answer or otherwise plead within thirty (30) days of the date of this Order. The answer shall comply with the requirements of § 2254 Rule 5 (setting forth contents of the answer).

Upon receipt of the response, the Court will determine whether a hearing is warranted. See § 2254 Rule 8 (providing circumstances under which a hearing is appropriate).

Petitioner is referred to Fed. R. Civ. P. 5, which requires

that every pleading, written motion, notice, and similar paper, after the petition, shall be served on all parties. Such service is to be made by mailing the material to the parties' attorneys.

SO ORDERED.


James R. Muirhead
United States Magistrate Judge

Date: June 4, 2009

cc: William J. Carey, pro se